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Subject

23 June 1953

EE/Personnel

Office of General Counsel

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OGC HAS REVIEWED.

Interpretation of Agency Field Regulation []

REFERENCE: Your Memorandum of 4 June 1953, same subject

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1. The reference requests an interpretation of Section of Agency Field Regulation [] which provides:

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"(b) The following types of leave shall not constitute a break in continuous service abroad:

"... (2) A period of annual leave granted an employee to return to the United States or its Territories and possessions, at his personal expense for the sole purpose of meeting a personal emergency."

2. You state that several employees in the field have taken leave in the United States paying the cost of their own transportation from and to their overseas post for reasons of personal convenience and that absence from duty in such cases has been charged to annual leave. The question you raise is whether the taking of such leave in the United States serves to interrupt the period of service for the purpose of establishing the individual's entitlement to statutory leave in the United States upon the completion of two-years continuous service abroad.

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3. It is our opinion that the words "for the sole purpose of meeting a personal emergency" in Section [] were intended to permit Agency employees on assignment overseas, at their own expense, to return to the United States without interrupting the continuity of their tour, under emergency circumstances similar to those under which the military services grant their personnel emergency or morale leave during a tour of foreign service. As you are probably aware, the military will permit an individual to return to the United States on emergency or morale leave where such leave is approved by the Theater Commander. For emergency leave, the military usually requires the certification of the American Red Cross that some close member of the serviceman's family, for reasons of serious illness or death, is in grave need of the serviceman's presence in the United States. For morale leave, the military likewise requires fairly concrete substantiation of the need for the serviceman's return to the United States to handle personal problems of a critical nature. The language

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in Section [] we believe, was intended to cover both types of situations.

4. However, the regulation quoted makes it quite clear that the only purpose for the individual's travel to the United States can be the meeting of a personal emergency. Obviously, this cannot be construed to mean that if the individual, during the period necessarily required to attend to the personal emergency, incidentally cares for business of an unrelated personal nature, a break in continuity of service would result. It does mean, however, that the purpose for the trip must be exclusively the meeting of a personal emergency and that as soon as the emergency situation can be reasonably said to have terminated, the individual must forthwith return to his post abroad.

5. Paragraph 2 of the reference suggests that the leaves in question were for "personal convenience" and not "for the sole purpose of meeting a personal emergency." If it is shown in any of these individual cases that the controlling motive for the return of the individual to the United States was the necessity to resolve an emergency situation, then, in accordance with the foregoing, the fact that personal convenience was incidentally served would not constitute a break in the continuity of the period of service abroad. On the other hand, if the attendance to a personal emergency arose as a corollary to a trip intended primarily for personal convenience, there would in our opinion be a break in the continuity of service abroad.

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